

Application No.: 10/826,871

Office Action Dated: September 9, 2005

Response to Office Action and Extension of Time Dated: January 27, 2006

Amendments to the Drawings:

Please replace figure 3 with the attached Replacement Sheet of figure 3.

REMARKS

Claims 1-20 were pending prior to filing this Response. Claims 1, 4, 6-8 and 12-17 are amended herein. Claims 2, 3, 5, 9-11 and 18-20 are canceled. Claims 21-25 are added. Therefore, claims 1, 4, 6-8, 12-17 and 21-25 remain for consideration.

The Examiner objects to the drawings. Specifically, the Examiner states that the electric heater as claimed must be shown or the feature canceled from the claims. The Examiner further objects to FIG. 3 for allegedly showing modified forms of construction in the same view.

Claims directed to an electric heater are canceled in this Response. Therefore, the objection to the drawings based on not showing an electric heater is now moot. Moreover, FIG. 3 is now being broken-up into FIGS. 3A and 3B. A proposed corrected drawing sheet showing the changes in red ink is being submitted with this Response. Accordingly, it is respectfully submitted that the objection to FIG. 3 is overcome.

The Examiner further states that the use of the trademark VELCRO should be capitalized wherever it appears and be accompanied by the generic terminology. The specification and claims are being amended where necessary to include the generic terminology.

The specification is objected to as allegedly not disclosing the claimed electric heating element. Applicant respectfully disagrees with the Examiner. The specification at paragraph [0039] recites a heating filament that can be used to heat the reservoir. The heating element is powered by electricity generated from a battery.

Claims 7 and 20 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite for allegedly not adequately supporting the plurality of solutions to be heated within the apparatus. The rejection is traversed and reconsideration is respectfully requested, particularly in view of the clarifying amendments to the claims. Claim 7 is amended herein to recite "solution". Claim 20 is canceled herein

and therefore is no longer under consideration. It is therefore respectfully submitted that the § 112, second paragraph rejection is overcome.

Claims 1-6, 8-13 and 17-20 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Lassota (U.S. Pat. No. 6,821,539). The rejection is traversed and reconsideration is respectfully requested, particularly in view of the clarifying amendments to the claims.

Lassota is directed to a method of maintaining temperature of a hot beverage in an urn with a self-heating urn (10) provided with heat packs (18) that are rapidly heated by a heating element (16) during the brewing process and then gradually release their heat to the brewed beverage within the urn after it is removed from the brewing location to a serving location at which electrical power for heating is not available. The heat packs (18) are formed of ceramic materials, high density liquids, PCM's or the like which are capable of being rapidly heated during the brewing process but then gradually release their heat to the beverage in the urn.

Alternatively, the warmer packs (18) are removably mounted within a compartment (68) within the self-heating urn (10) and are heated apart from the brewing process and then inserted into the self-heating urn (10) when it is moved to a serving location.

With regard to claim 1 of the present application, Lassota does not teach or suggest a sterile apparatus having an impact resistant housing, having an outer surface defining an opening, an interior of the housing defining a canal, a solution disposed adjacent to a second end of the canal, a pocket adjacent to the second end of the canal, a catalyst disposed in the pocket, an unoxidized exothermically decomposable material disposed within a chamber, and a connector communicating at one end with the chamber and at another end with the pocket for controllably admitting the material into the pocket for activating an exothermic reaction of the material to heat the solution. Lassota requires a heating element to heat the heat packs (see col. 4, lines 59-61), whereas the apparatus claimed in the present application uses an exothermically decomposable material and a catalyst to generate

heat. The elimination of a heating element is particularly important in order to keep the cost of such apparatus minimal such as, for example, when the apparatus is disposable after a single use.

For an anticipation rejection to be appropriate, each and every element or limitation in a rejected claim must be disclosed in a single prior art reference used in the claim rejection. Because Lassota does not teach or suggest a sterile apparatus employing the recited structure and material for generating an exothermic reaction, it cannot be maintained that Lassota anticipates claim 1. Moreover, because remaining rejected claims 5, 6, 8, 12, 13 and 17 each ultimately depend from and thereby incorporate the limitations of claim 1, these dependent claims are not anticipated by Lassota for at least the reasons set forth for claim 1.

Claims 1, 2, 4-6, 8-13 and 17-20 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Layer et al. (U.S. Publ. No. 2004/0065314 A1). The rejection is traversed and reconsideration is respectfully requested, particularly in view of the clarifying amendments to the claims.

Layer et al. is directed to apparatus, systems and methods for the warming of materials. In an embodiment, the heat for warming the materials is provided by an activatable heating substance, such as a supercooled salt solution. In an embodiment, an apparatus maintains fluid at a preselected temperature for prolonged durations. In another embodiment, an apparatus may be sterilized for deployment in a sterile surgical field. In a further embodiment, an apparatus may be reused. In another embodiment, an apparatus is adapted for easy pouring of contents.

With regard to claim 1 of the present application, Layer et al. does not teach or suggest a sterile apparatus having an impact resistant housing, having an outer surface defining an opening, an interior of the housing defining a canal, a solution disposed adjacent to a second end of the canal, a pocket adjacent to the second end of the canal, a catalyst disposed in the pocket, an unoxidized exothermically decomposable material disposed within a chamber, and a connector communicating

at one end with the chamber and at another end with the pocket for controllably admitting the material into the pocket for activating an exothermic reaction of the material to heat the solution. Rather, Layer et al. employs an air activation mechanism attached to a handle to initiate a crystallization of a supercooled sodium acetate solution.

For an anticipation rejection to be appropriate, each and every element or limitation in a rejected claim must be disclosed in a single prior art reference used in the claim rejection. Because Layer et al. does not teach or suggest a sterile apparatus employing the recited structure and material for generating an exothermic reaction, it cannot be maintained that Layer et al. anticipates claim 1. Moreover, because remaining rejected claims 4, 6, 8, 12, 13 and 17 each ultimately depend from and thereby incorporate the limitations of claim 1, these dependent claims are not anticipated by Layer et al. for at least the reasons set forth for claim 1.

Claims 14-16 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Layer et al. (U.S. Publ. No. 2004/0065314 A1). The rejection is traversed and reconsideration is respectfully requested, particularly in view of the clarifying amendments to the claims.

The Examiner believes that the securing mechanism being glue, VELCRO or a bolt is deemed to have been known to those skilled in the art. However, Layer et al. does not appear to teach or see a need for a securing mechanism, let alone a securing mechanism being glue, VELCRO or a bolt as recited in the claimed invention.

In any event, claims 14-16 each ultimately depend from and thereby incorporate the limitations of claim 1. It was demonstrated above that the teaching of Layer et al. is insufficient to anticipate claim 1 from which rejected claims 14-16 each ultimately depend. It therefore follows that Layer et al. also contains insufficient teaching when taken either alone or in combination with the alleged knowledge of employing a securing mechanism of glue, VELCRO or a bolt to render claims 14-16 obvious.

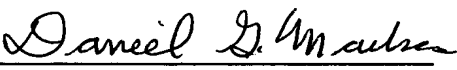
In view of the foregoing, it is respectfully submitted that claims 1, 4, 6-8, 12-17

Application No.: 10/826,871
Office Action Dated: September 9, 2005
Response to Office Action and Extension of Time Dated: January 27, 2006

and 21-25 are in condition for allowance. All issues raised by the Examiner having been addressed, an early action to that effect is earnestly solicited.

Applicant hereby petitions for a two-month extension of time to file this Response. A check in the amount of \$225.00 is enclosed for covering the extension fee for a small entity. No additional fees or deficiencies in fees are believed to be owed. However, authorization is hereby given to charge our Deposit Account No. 13-0235 in the event any such fees are owed.

Respectfully submitted,

By 
Daniel G. Mackas
Registration No. 38,541
Attorney for Applicant

McCORMICK, PAULDING & HUBER LLP
CityPlace II, 185 Asylum Street
Hartford, CT 06103-3410
(860) 549-5290